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Keizo Ohta

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8790

27562

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01/21/2009

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EXAMINER

MCCULLOCH JR, WILLIAM H

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

ATTACHMENT

1. This action is in response to a Request for Reconsideration received 12/11/2008, of the Final Office Action mailed 9/11/2008. Applicant's arguments have been considered but are not persuasive.

2. On pages 2-3 of the Remarks section, Applicant expresses "some confusion regarding the rejections actually appearing in the Final Office Action." The Examiner notes that the grounds of rejection were clearly expressed on pages 2-5 of the Final Action. For Applicant's edification, they are repeated herein:

- Claims 1 and 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bilodeau et al. (US 6,384,822 B1) in view of Higashiyama (US 2002/0036638 A1).
- Claims 2-5 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bilodeau et al. (US 6,384,822 B1) in view of Higashiyama (US 2002/0036638 A1) as applied above, and further in view of Matsumoto (US 5,043,922).

Applicant has apparently misinterpreted the grounds of rejection of claims 1 and 6-7 to include the reference to Matsumoto. This is not the case. As is clear from the above repetition, the grounds of rejection have not changed from the prior non-final action. Applicant's arguments to the contrary are considered moot as they have no basis in the record. Applicant states on page 2 that "no rejection based on Bilodeau, Higashiyama, and Matsumoto has been made of record." This is inaccurate. Claims 2-5 and 8-10 have been rejected on this basis.

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3. On pages 2-3 of the Remarks, Applicant refers to portions of the Final Office Action. Specifically, this portion of the Final Action (pp. 6-7) notes that Applicant has admitted that Matsumoto presents various teachings relevant to the claimed invention. Namely, Matsumoto teaches "using a light source placed in the virtual space as a viewpoint." Applicant presents no evidence to suggest that this allegation was incorrectly noted by the Examiner.

4. On page 3 of the Remarks, Applicant refers to the "rejections on the merits included in the main portion of the Final Office Action." For clarity, the Examiner notes that these are the actual grounds of rejection applied to the claims. Applicant states that the Final Office Action "admits that Higashiyama shows that reference V is the light source and V is not the viewpoint." This statement is inaccurate. The Examiner stated that V is not *necessarily* the viewpoint (Final, p. 6). Indeed, Higashiyama is directed toward a well established area of art relating to three dimensional image processing programs for video game systems. Applicant has noted the representative teachings of Higashiyama used to support this position on page 4 of the Remarks. Systems such as Higashiyama's are known to allow virtual cameras to move in at least one, and generally three, dimensions. Thus, it is possible for the viewpoint (associated with the virtual camera) to align with the light source V.

5. On page 4 of the Remarks, Applicant states that if the light source and viewpoint were exactly the same, then Higashiyama in combination with Bilodeau would not result in a functioning embodiment. This is not what is argued by the Examiner and it is

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therefore moot. It is noted, however, that Applicant failed to point out why such a combination would not be functional.

6. Page 5 of the Remarks is directed toward claims 7-10, and whether the claimed limitation of reducing the amount of exception case handling is a functional (intended use recitation) or structural limitation. The Examiner submits that there is nothing structural about 'reducing the amount of exception case handling' whatsoever. This is a result of other structures/operations carried out by the claimed invention. A result cannot be considered "structural". This does not indicate that the limitation is given no patentable weight at all, but rather, "If the prior art structure is capable of performing the intended use, then it meets the claim." The Examiner submits that the prior art structure, taught by the combination of references above, is capable of performing the intended use recitation. Applicant has provided no evidence to the contrary.

7. On page 6 of the Remarks, Applicant addresses arguments initially presented in a Response received 5/5/2008. Applicant alleges that "the arguments would apply both to the references individually, as well as the combination of references, since the Final Office Action merely attempts to incorporate certain features of Higashiyama into Bilodeau in making the alleged combination." The Examiner is unsure to what argument Applicant is referring. The Final Office Action addressed an argument made by the Applicant that attacked a single reference rather than the combination of references. However, that reference was Matsumoto, not Higashiyama. In any case, the Examiner cannot possibly address an argument that Applicant allegedly made

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toward one reference but intended to make it toward multiple references. Appropriate clarification is requested from the Applicant in any subsequent communication.

8. For at least the above reasons, the claimed invention is deemed obvious over the cited prior art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. McCulloch whose telephone number is (571) 272-2818. The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/W. H. M./
Examiner, Art Unit 3714
1/14/2009

/Corbett Coburn/
Primary Examiner
AU 3714